

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**SAINT LAWRENCE COMMUNICATIONS §
LLC, §**

Plaintiff,

V.

**APPLE INC., AT&T MOBILITY LLC,
and CELCO PARTNERSHIP D/B/A
VERIZON WIRELESS,**

Defendants.

S S S S S S S S S S

Case No. 2:16-cv-00082-JRG

Jury Trial Demanded

**PARTIES' JOINT MOTION FOR ENTRY OF
PRIOR CLAIM CONSTRUCTION ORDER AS TO CERTAIN SPECIFIED TERMS**

Plaintiff Saint Lawrence Communications LLC (“Saint Lawrence” or “SLC”) and Defendants Apple Inc. (“Apple”), AT&T Mobility LLC (“AT&T”), and Cellco Partnership d/b/a Verizon Wireless (“Verizon”), (collectively “Defendants”) have reached an agreement related to various disputed claim terms.

Although there are a large number of claim terms in dispute in this case, the parties note that the majority of these claim terms overlap with the terms that were in dispute in *Saint Lawrence Communications LLC v. ZTE Corporation et al.*, No. 2:15-cv-349, -351 and *Saint Lawrence Communications LLC v. HTC Corp.*, et al., No. 2:15-cv-919, -1510 (collectively, “the Co-Pending Cases”). In view of this overlap, and given the fact that the Court has already considered the claim construction arguments in the Co-Pending Cases and issued a claim

construction ruling in Case No. 2:15-cv-349 (Dkt. No. 236¹, the “Prior Claim Construction Order”), the parties have reached an agreement that covers the majority of the disputed claim terms and that will greatly simplify both the parties’ claim construction efforts and the Court’s review and analysis of the parties’ claim construction disputes. Specifically, as outlined below, the parties seek to preserve judicial resources by capitalizing on the Court’s prior efforts in the Co-Pending Cases and its resulting Prior Claim Construction Order while, at the same time, preserving the parties’ appellate rights with respect to these disputed claim terms based on the arguments previously considered by the Court in the Co-Pending Cases. Although the parties believe that the proposal below will genuinely conserve the resources of the Court and the parties, to the extent that the parties have inadvertently overlooked any issues, the parties agree to work in good faith to address these issues in a way that minimizes any burdens on the Court.

Pursuant to this agreement, and in the interest of judicial economy, the parties respectfully request that the Court incorporate the claim construction proceedings in the Co-Pending Cases, including briefing and related exhibits, the hearing transcript, and the Court’s Prior Claim Construction Order as to the terms identified in Appendices A, B, and C by reference into the record of this Action, for purposes of preserving the parties’ respective rights on appeal. Specifically, the parties request that at least the following documents on file with the Court, as identified by PACER Docket Reports, be incorporated into this Action:

- *Saint Lawrence Communications LLC v. ZTE Corporation et al.*, No. 2:15-cv-349, Dkt. Nos. 59, 71, 74, 75, 76, 157, 162, 171, 174, 176, 177, 180, 182, 206, 210, 211, 212, 213, 215, 216, 221, 223, 229, 236, and 238.

¹ The Prior Claim Construction Order is listed as Dkt. No. 236 in PACER; however, the file-stamped version of the Prior Claim Construction Order is labelled as “Document 235” in the document header.

- *Saint Lawrence Communications LLC v. HTC Corp.*, et al., No. 2:15-cv-919, -1510, Dkt. Nos. 39, 66, 69, 70, 71, 78, 80, 89, 92, 94, 97, 99, 100, 121, and 122.

PACER Docket Reports dated November 16, 2016, identifying these documents, are enclosed with this joint motion as Exhibits A and B. The parties request that the Court deem these documents and any accompanying exhibits or attachments to be part of this Action's claim construction record for purposes of preserving the parties' appellate rights. In the event of any appeal, the parties stipulate to include copies of these documents and any accompanying exhibits or attachments in the appellate record.

The parties stipulate and hereby respectfully request an order that they have the right to appeal the Court's prior rulings on any of the terms identified in Appendices A and B in this case, and that the parties can rely on the record established in the Co-Pending Cases, including all claim construction briefing, the hearing transcript, and the Court's Prior Claim Construction Order for all appellate purposes. That is, notwithstanding the status of the Co-Pending Actions, the parties in this Action retain the right to appeal any ruling on the claim terms identified in the Prior Claim Construction Order in their case, and the parties can rely on the record established in the Co-Pending Cases.

In view of the order sought by this pending motion, the parties will not provide additional arguments in their claim construction briefing or at the *Markman* hearing regarding the terms identified in Appendix A that the Court construed in its Prior Claim Construction Order. Further, the parties will not provide additional arguments in their claim construction briefing or at the *Markman* hearing regarding the terms identified in Appendix B that the Court also construed in its Prior Claim Construction Order, except as to the specific issues of whether each term is subject to 35 U.S.C. § 112(6). That is, the parties stipulate to not provide additional

arguments in their claim construction briefing or at the *Markman* hearing as to the corresponding structure regarding the terms identified in Appendix B and will instead only brief the underlying question of whether each term is subject to 35 U.S.C. § 112(6).

Notwithstanding the foregoing, the parties maintain the right to seek a different construction for a particular term in the event this Court or an appellate court changes the construction of that term in the Co-Pending Actions during the pendency of this Action.

Further, the parties identify eight “means for” terms in Appendix C not addressed in the Prior Claim Construction Order. To the extent any term in Appendix C is subject to 35 U.S.C. § 112(6), the parties agree that the Court’s findings on pages 11 through 15 of the Court’s Prior Claim Construction Order (*Saint Lawrence Communications LLC v. ZTE Corporation et al.*, No. 2:15-cv-349, Dkt. No. 236, at 11-15 (E.D. Tex. Oct. 25, 2016) (Payne, J.)) regarding the disclosure of a computer or processor is applicable to these terms and the parties will not provide additional arguments in their claim construction briefing or at the *Markman* hearing regarding this issue. The parties respectfully request that the Court incorporate the record from the Co-Pending Cases as it relates to the Court’s findings on pages 11 through 15 of the Prior Claim Construction Order and deem the corresponding arguments as being properly raised in this case for each of the terms in Appendix C for purposes of appeal. The parties anticipate that the Court can subsequently construe the terms in Appendix C as part of the claim construction order in this case, and the parties will not provide additional arguments in their claim construction briefing or at the *Markman* hearing regarding the terms identified in Appendix C, except to the extent the parties are (a) unable to reach agreement regarding whether the term is subject to 35 U.S.C. § 112(6) or (b) unable to agree on the function and corresponding specification disclosure of any algorithm for performing the recited function.

Notwithstanding the above agreement and the Prior Claim Construction Order, and for purposes of clarity, the parties agree that the following seven (7) terms are disputed terms under P.R. 4-3(b) in this Action, and the parties agree that they may provide additional arguments as to the following claim terms in their claim construction briefing or at the *Markman* hearing.

- “[synthesized] [weighted] wideband [speech] signal” (claims 1, 2, 3, 6, 11, 21, 22, 23, 26, 31, 32, 33, 36, 51, 61 of the 805 patent; claims 1, 8, 9, 15, 29, 36 of the 524 patent; claims 1, 2, 3, 8, 9, 10, 11, 12, 16, 25, 33, 49, 50 of the 802 patent; claims 1, 2, 3, 4, 5, 6, 10, 11, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 31, 34, 35, 53, 54, 55, 56, 57, 58, 62, 63, 66, 67, 69, 70, 71, 72, 73, 74, 78, 79, 82, 83, 102, 103 of the 123 patent; and claims 10, 28, 37 of the 521 patent)
- “fixed denominator” (claims 1 and 8 of the 524 patent)
- “A [device/method] for enhancing periodicity of an excitation signal produced in relation to a pitch codevector and an innovation codevector for supplying a signal synthesis filter in view of synthesizing a wideband speech signal” (preamble) (claims 1 and 11 of the 805 patent)
- “low frequency portion” (claims 1 and 11 of the 805 patent) // “reduce energy of a low frequency portion of the innovative codevector and enhance periodicity of a low frequency portion of the excitation signal” (claim 1 of the 805 patent) // “filtering the innovative codevector in relation to said periodicity factor to thereby reduce energy of a low frequency portion of the innovative codevector and enhance periodicity of a low frequency portion of the excitation signal” (claim 11 of the 805 patent)
- “high frequency content” (claims 1 and 8 of the 524 patent) // “signal preemphasis filter responsive to the wideband speech signal for enhancing a high frequency content of the wideband speech signal” (claim 1 of the 524 patent) // “to produce a preemphasised signal with enhanced high frequency content” (claim 8 of the 524 patent)
- “wherein γ^2 is set equal to μ ” (claims 7, 14, 21, 35, and 42 of the 524 patent)
- “said excitation signal” (claims 1, 9, and 25 of the 802 patent)

The parties respectfully submit that the above agreement will dramatically conserve the resources of the Court while allowing the parties to benefit from the Court’s prior resolution of the disputed issues. Accordingly, the parties believe that there is good cause for the Court to grant the parties joint motion.

Dated: November 17, 2016

Respectfully submitted,

/s/ Michael McBride

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was filed electronically in compliance with Local Rules CV-5(a) on November 17, 2016. As such, this document was served on all counsel of record pursuant to Local Rules CV-5(a)(3)(A) and the Federal Rules of Civil Procedure.

/s/ Michael McBride

Michael McBride